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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,376	10/29/2003	Warren E. Baxley	7257/34(a)	7580
7590		09/08/2004	EXAMINER	
Robert C. Dorr, Esq.		PHAN, TRI H		
Dorr, Carson, Sloan & Birney, P.C.		ART UNIT		
3010 East 6th Avenue		2661		
Denver, CO 80206		PAPER NUMBER		

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/696,376

Applicant(s)

BAXLEY ET AL.

Examiner

Tri H. Phan

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) 12-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 27-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/29/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-11 and 27-36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,657,975.

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For claims 1-11 of the claimed invention, the claims 1-13 of Patent No. 6,657,975 discloses an audio conferencing method in a hybrid network having a plurality of endpoints connected to an audio conference therein, the audio conferencing method comprises the steps of receiving in a media gateway input from a corresponding endpoint in the plurality of endpoints connected to the audio conference, converting in the media gateway the input to a multiple control unit usable format, selecting in the media gateway the converted input, transferring the selected input to a multiple control unit, mixing in the multiple control unit the selected input with other selected input to form a) an output stream, and b) a sum stream, matching a) the output stream with the corresponding endpoint and b) the sum stream with other endpoints in the plurality of endpoints connected to the audio conference, transferring the matched output stream and sum stream to the media gateway, converting in the media gateway the output stream and the sum stream to an endpoint-usable format, returning the converted output stream to the corresponding endpoint and the converted sum stream to the other endpoints in the plurality of endpoints connected to the audio conference (see claim 1 of Patent No. 6,657,975);

where the method further supporting full service audio conferencing using a reservation system and a call agent (see claim 2 of Patent No. 6,657,975);

wherein the reservation system and the call agent are tightly integrated (see claim 3 of Patent No. 6,657,975);

wherein the reservation system and the call agent are loosely integrated (see claim 4 of Patent No. 6,657,975);

where the method further including the step of dynamically routing an operator voice path to service a plurality of multiple control units (see claim 6 of Patent No. 6,657,975);

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where the method further including the step of renegotiating the destination of a voice path to move an audio conference participant from the selected multiple control unit to a second multiple control unit (see claim 7 of Patent No. 6,657,975);

where the method further including the step of moving the audio conference from the selected multiple control unit to a second multiple control unit (see claim 8 of Patent No. 6,657,975);

where the method further including the steps of: providing the audio conference to a streaming protocol server from the selected multiple control unit; connecting a passive participant to the streaming protocol server; and broadcasting the audio conference from the streaming protocol server to a passive participant (see claim 9 of Patent No. 6,657,975);

wherein the plurality of endpoints has both circuit-switched endpoints and packet-based endpoints (see claim 11 of Patent No. 6,657,975)

wherein the media gateway and the multiple control unit are part of a bridge server (see claim 13 of Patent No. 6,657,975).

Applicant's claim 1 merely broadens the scope of claim 1 of the by replacing the terms "*media gateway*" of the Patent No. 6,657,975 with the terms "*bridge server*" for claim 1 of the claimed invention (see lines 4 and 6) and by replacing the terms "*corresponding*" of the Patent No. 6,657,975 with the terms "*at least one endpoint*" for claim 1 of the claimed invention (see lines 4, 8 and 11); and by eliminating the steps such as "*converting the input ...*", "*transferring the selected input to ...*", "*transferring the matched output stream and sum stream to ...*", and "*converting the output stream and sum stream to ...*" from claim 1 of Patent No. 6,657,975. It

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has been held that the omission of steps and its function is obvious expedient if the remaining steps perform the same function as before. *In re Karlson*, 136 USPQ 184(CCPA). Also note *Ex parte Rainu*, 168 USPQ 375(Bd. App. 1969); omission of the reference steps whose function is not needed would be obvious to one skilled in the art.

For claims 27-31 and 32-36 of the claimed invention, the claims 14-15 of Patent No. 6,657,975 discloses an audio conferencing method in a hybrid network having a plurality of endpoints connected to an audio conference therein, the plurality of endpoints having both a circuit-switched endpoint and a packet-switched endpoint, the audio conferencing method comprises the steps of receiving in a media gateway input from a corresponding endpoint in the plurality of endpoints connected to the audio conference, converting in the media gateway the input to a multiple control unit usable format, selecting in the media gateway the converted input, transferring the selected input to a multiple control unit, mixing in the multiple control unit the selected input with other selected input to form a) an output stream that is the sum of each selected input from the plurality of endpoints exclusive of the input from the corresponding endpoint, and b) a sum stream, matching a) the output stream with the corresponding endpoint and b) the sum stream with other endpoints in the plurality of endpoints connected to the audio conference, transferring the matched output stream and sum stream to the media gateway, converting in the media gateway the output stream and the sum stream to an endpoint-usable format, returning the converted output stream to the corresponding endpoint and the converted sum stream to the other endpoints in the plurality of endpoints connected to the audio conference (see claim 14 of Patent No. 6,657,975), the audio conference:

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supporting full service conferencing in the audio conference to the endpoint with
a reservation system and a call agent,

supporting dynamically routed audio signals within the packet-switched network,

supporting passive participants in the packet-switched network,

supporting dial out from the audio conference to an additional endpoint (see claim
14 of Patent No. 6,657,975);

wherein the media gateway and the multiple control unit are part of a bridge server (see claim 15
of Patent No. 6,657,975).

Applicant's claims 27-31 merely broadens the scope of claim 14 of the by replacing the terms "*selected input*" of the Patent No. 6,657,975 with the terms "*transferred received*" for claim 27 of the claimed invention (see line 8); and by eliminating the steps such as "*converting the input ...*", "*selecting the converted input ...*", "*transferring the matched output stream and sum stream to ...*", and "*converting the output stream and sum stream to ...*" from claim 14 of Patent No. 6,657,975. It has been held that the omission of steps and its function is obvious expedient if the remaining steps perform the same function as before. *In re Karlson*, 136 USPQ 184(CCPA). Also note *Ex parte Rainu*, 168 USPQ 375(Bd. App. 1969); omission of the reference steps whose function is not needed would be obvious to one skilled in the art.

Applicant's claim 32-36 merely broadens the scope of claim 14 of the by replacing the terms "*selected input*" of the Patent No. 6,657,975 with the terms "*transferred received*" for

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claim 32 of the claimed invention (see lines 7 and 8); and by eliminating the steps such as “*converting the input ...*”, “*selecting the converted input ...*”, “*transferring the matched output stream and sum stream to ...*”, and “*converting the output stream and sum stream to ...*” from claim 14 of Patent No. 6,657,975. It has been held that the omission of steps and its function is obvious expedient if the remaining steps perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd. App. 1969); omission of the reference steps whose function is not needed would be obvious to one skilled in the art.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ono (U.S. 6,728,222) is cited to show devices and methods for improving the voice control of the conference terminal control device in the communication architectures, which are considered pertinent to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri H. Phan, whose telephone number is (571) 272-3074. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Olms can be reached on (571) 272-3079.

Any response to this action should be mailed to:

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Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA, Sixth Floor.

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the Technology Center 2600 Customer Service Office, whose telephone
number is (703) 305-3900.



Tri H. Phan
August 31, 2004



DANG TON
PRIMARY EXAMINER